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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,397	08/27/2003	James DeFrancesco	DLT-001DIV1	6100

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
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EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3696

NOTIFICATION DATE	DELIVERY MODE
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02/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/649,397	DEFRANCESCO ET AL.	
	Examiner	Art Unit	
	DANIEL S. FELTEN	3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-18, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19 and 23 is/are rejected.
- 7) ☒ Claim(s) 9-12, 20 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/27/2008</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 13-18, 21 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 11/17/2008

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
4. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, because the claims recite a single means (a processor). A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claim covers every

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conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1-12, the word "means" is preceded by the words "for receiving", "for saving", "for selectively", in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebda et al (US 6,385,594) in view of In re Harza, 124 USPQ 378 (CCPA 1960).

Re claim 1: Lebda discloses a computer program product having a plurality of program steps to be executed on a computer to generate a database from which statistical information concerning acceptance and/or rejection of credit applications by funding sources can be derived (see column 1, line 48+) column 3, lines 26+),

said program product comprising:

means for providing a database (fig. 2)(170)(140)(195)(110)(column 2, line 66 to column 4, line 7);

means for receiving a credit application from at least one remote application input location, said credit application containing application data (150)(see fig. 2) ;

means for saving said application in said database (see fig. 12)(146)(column 6, lines 61 to column 7, line 8);

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means for selectively forwarding said received credit application to one or more funding sources (see column 1, lines 58 to column 2, line 9);

means for receiving a funding decision from said one or more funding sources (lenders), said funding decision containing funding source data and means for storing said funding source data in said database (see column 1, lines 58 to column 2, line 9).

Re claim 2: A computer program product as in claim 1, further comprising means for selectively providing statistical data regarding credit application processing. (see column 3, lines 1-25; also fig. 5 “Fair Isaac Credit Score,” column 4, lines 32-41)

Re claim 3: further comprising means for selectively providing statistical data regarding funding source decisions (see column 3, lines 1-25; “reports” fig. 4, column 4, lines 20-31; and/or “filter,” column 4, lines 42-63).

Re claim 4: means for selectively providing statistical data regarding funding source decisions (see “reports” fig. 4, column 4, lines 20-31; and/or “filer,” column 4, lines 42-63).

Re claim 5: A method of generating a database from which statistical information concerning acceptance and/or rejection of credit applications by funding sources can be derived, said method comprising the steps of:

a) providing a database(170)(140)(195);

b) receiving a credit application from a remote application input location said credit application containing application data (150)(see fig. 2);

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c) storing said application in said database (fig. 2)(170)(140)(195)(110)(column 2, line 66 to column 4, lline 7, esp., stage 4 column 3, lines 10-11, etc.,)

d) selectively forwarding said received credit application to one or more funding sources (fig. 2)(see column 2, line 66 to column 4, lline 7, esp., column 2, line 66 to column 4, lline 7)

e) receiving a funding decision from said one or more funding sources, said funding decision containing funding source data (see column 1, lines 58 to column 2, line 9)

f) storing said funding source data in said database ; (see column 2, line 66 to column 4, line 7)

Lebda fails to disclose repeating steps b) thru f) a plurality of times. However the mere duplication of parts/steps has no patentable significance unless a new and/or unexpected result is produced [see In re Harza, 124 USPQ 378 (CCPA)]. Thus it would have been obvious for a more than one user to use Lebda and thus repeat steps b-f a plurality of times without producing new or unexpected results and/or objectives other than those enunciated in Lebda (see Lebda, column 1, lines 48+).

Re claim 6. (see recitation in claim 2)

Re claim 7: (see recitation in claim 3)

Re claim 8: (see recitation in claim 4)

Re claim 19: (see recitation for claims 1 and 12)

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Re claim 23: (see recitation for claim 1 and 5)

Allowable Subject Matter

9. Claims 9-12, 20 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten
Primary Examiner
Art Unit 3696

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Primary Examiner, Art Unit 3696